

## REMARKS

Reconsideration of this application in light of the present amendment and remarks is respectfully requested.

Claims 24-29 and 32-35 have been rejected.

Claims 1-23, 30-31 and 36-40 were previously canceled.

Claims 24-26 and 32 have been amended.

Claim 41 has been added.

Claims 24-29, 32-35 and 41 are pending in this application.

### **35 U.S.C. §103(a)**

Claims 24-29 and 32-35 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Diepstraten et al. (US 5,329,531, hereinafter “Diepstraten”) in view of Jorgensen (US Publ. 2007/0038751) and Regnier et al. (US Publ. 2007/0038751, hereinafter “Regnier”). This rejection is respectfully traversed.

The independent claims have been amended to clarify that earlier received packets have higher priority than later received packets, support for which can be found on page 14 lines 23-25. In addition, the claims have been rearranged for clarity and for proper antecedent basis.

Diepstraten describes (col. 2 lines 34-28 and col. 3 lines 1-2) isochronous (voice) packets having a higher priority than asynchronous packets. However, applicants respectfully disagree that Diepstraten (col. 2 line 15 to col. 3 line 27 and col. 6 lines 60-65) describes anything about prioritizing packets based upon the total number of packets present, or that packets are prioritized in the order received.

In addition, the Examiner admits that Diepstraten is missing the elements of; network management packets, and network management packets having a higher priority than other packets.

Applicants wish to point out that both Jorgensen and Regnier have filing dates that are well after the filing date of the present application, and therefore these references are invalid as prior art.

Accordingly, applicants respectfully submit that the prior art is missing at least the elements of; a) prioritizing packets based upon the total number of packets present, b) prioritizing packets in the order received, c) network management packets, and d) network management packets having a higher priority than other packets.

Inasmuch as the prior art is missing these many elements, applicants believe that the amended independent claims are patentable and non-obvious.

Further, regarding claims 26-27 and 32-33, although Diepstraten does disclose (col. 7 lines 4-5) a contention window that can change its size, it does not disclose two contention windows, and therefore could not have envisioned using one window for voice traffic and the second window for data traffic, and further could not have envisioned the voice window being smaller than the data window.

Accordingly, applicants respectfully submit that the prior art is missing at least the additional elements of; e) two contention windows, f) using one window for voice traffic and the second window for data traffic, and g) the voice window being smaller than the data window.

Claim 41 has been newly added to recited that in each transmission round (e.g. timeslot) an equal number of packets is transmitted to each receiver unit to provide fairness, even under prioritized conditions. Support for this can be found on page 4 lines 18-33. None of the cited art provides for this fairness condition under prioritized conditions.

Moreover, claims 27-29 and 33-35, 41 are dependent on amended claims 26 and 32, respectively, hereby incorporated by reference, and therefore deemed allowable as well for the same reasons.

Accordingly, it is respectfully submitted that this rejection has been overcome.

The other references of record have been reviewed and applicant's invention is deemed patentably distinct and nonobvious over each taken alone or in combination.

For the foregoing reasons, applicants respectfully request that the above rejections be withdrawn.

Inasmuch as this amendment distinguishes all of the applicants' claims over the prior art references, for the many reasons indicated above, passing of this case is now believed to be in order. A Notice of Allowance is earnestly solicited.

No amendment made was related to the statutory requirements of patentability unless expressly stated herein. No amendment made was for the purpose of narrowing the scope of any claim, unless applicant has argued herein that such amendment was made to distinguish over a particular reference or combination of references.

Authorization is hereby given to charge any fees necessitated by actions taken herein to Deposit Account 50-2117.

Respectfully submitted,  
**Beach et al.**

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